

## **REMARKS**

Applicants respectfully request entry of the following amendments and remarks contained herein in response to the Office Action mailed May 5, 2005. Applicants respectfully submit that the amendment and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 8 – 10, 14 – 19, and 41 – 44 remain pending. In particular, Applicants cancel claims 1 – 7 and 24 – 40 without prejudice, waiver, or disclaimer. Applicants cancel these claims merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Allowable Subject Matter**

The Office Action indicates that claims 8 – 19 and 41 – 44 are allowed. Applicants sincerely appreciate Examiner Appiah's indication of allowed claims, but submit that claims 11 – 13 were canceled in a previous Response. Applicants presume that the Office Action intended to indicate that 8 – 10, 14 – 19, and 41 – 44 are allowed, and will proceed accordingly.

### **II. Rejections Under 35 U.S.C. §103**

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the cited art reference must suggest all features of the claimed invention to one of ordinary skill in the art.

*See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). Further, “[t]he PTO has the burden under section 103 to establish a prima facie case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.” *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

**A. Claims 1, 4, 5, 6, and 7 are Patentable Over *Haartsen* in View of *Chapman***

The Office Action indicates that claims 1, 4, 5, 6, and 7 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,771,453 to *Haartsen* (“*Haartsen*”) in view of U.S. Patent No. 6,192,231 to *Chapman* (“*Chapman*”). Applicants respectfully traverse this rejection for at least the reason that *Haartsen* in view of *Chapman* fails to disclose, teach, or suggest all of the elements of these claims. As a nonlimiting example, with respect to claim 1, Applicants note that *Chapman* fails to disclose, teach, or suggest:

A telephone apparatus... which allows a traditional telephone device designed to operate with the home base station such that communication by the telephone device on the mobile telecommunications network through the at least one mobile telephone when the at least one mobile telephone... is in the home base station’s coverage area... *Chapman* further discloses the capability of detecting the presence or absence of cordless handsets and routing selection means in accordance with the presence or absence of the handsets... (OA p. 3)

as suggested by the Office Action. While Applicants respectfully traverse this rejection, Applicants cancel claims 1, 4, 5, 6, and 7, and consider this rejection moot.

**B. Claims 24 – 35, 38, 39 and 40 are Patentable Over *Griffith* in View of *Chapman* and Further in View of *Haartsen***

The Office Action indicates that claims 24 – 35, 38, 39, and 40 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,598,412 to Griffith (“*Griffith*”) in view of *Chapman* and further in view of *Haartsen*. Applicants respectfully traverse this rejection for at least the reason that *Griffith* in view of *Chapman* in view of *Haartsen* fails to disclose, teach, or suggest all of the elements of these claims. As a nonlimiting example, with respect to claim 24, Applicants note that *Chapman* fails to disclose, teach, or suggest:

A telephone apparatus... which allows a traditional telephone device designed to operate with the home base station such that communication by the telephone device on the mobile telecommunications network through the at least one mobile telephone when the at least one mobile telephone... is in the home base station’s coverage area... *Chapman* further discloses the capability of detecting the presence or absence of cordless handsets and routing selection means in accordance with the presence or absence of the handsets... (OA p. 6)

as suggested by the Office Action. While Applicants respectfully traverse this rejection, Applicants cancel claims 24 – 35, 38, 39, and 40 and consider this rejection moot.

**C. Claims 36 and 37 are Patentable Over *Griffith* and *Chapman* and further in view of allegedly “Well Known Prior Art (Official Notice)”**

The Office Action indicates that claims 36 and 37 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Griffith* and *Chapman* and further in view of what is alleged to be “Well Known Prior Art (Official Notice)”. Applicants respectfully traverse this rejection.

The Office Action states that the “examiner takes Official Notice that the concept of using connection quality history as well as radio signal strength for making mobile communication connections is very well known and expected in the art and as such it would have been obvious to make the mobile telephone selection based on signal strength and connection quality history in order to ensure maintaining high quality communications to subscribers” (OA p. 10 – 11).

Applicants respectfully traverse this finding of Official Notice and submit that the subject matter noted above should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support the conclusions, as required. While Applicants respectfully traverse this rejection, Applicants cancel claims 36 and 37 and consider this rejection moot.

### **III. Unaddressed Claims 2 and 3 are Allowable in View of the Cited Art**

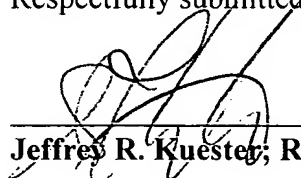
Applicants note the Office Action has failed to address the status of claims 2 and 3. Applicants note that claims 2 and 3 are allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest all of the limitations of these claims. However, Applicants cancel claims 2 and 3, and consider this issue moot.

## CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Further, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



---

Jeffrey R. Kuester, Reg. No. 34,367

**THOMAS, KAYDEN,  
HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500